

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

-----X	:
CONNECTICUT BANK OF COMMERCE,	:
	:
Plaintiff,	:
	:
- against -	: Civil Action No. 05-762 SLR
	:
THE REPUBLIC OF CONGO,	:
	:
Defendant,	:
	:
CMS NOMEKO CONGO INC.,	:
	:
Garnishee.	:
-----X	:

PLAINTIFF’S MOTION TO STAY BRIEFING SCHEDULE BASED UPON
SETTLEMENT WITH JUDGMENT DEBTOR

Plaintiff, Af-Cap, Inc. (assignee of Connecticut Bank of Commerce) (“Af-Cap”), by and through undersigned counsel, respectfully requests that the Court stay the pending briefing schedule because Af-Cap has resolved its dispute with the Judgment Debtor, Republic of Congo (“Congo”). Thus, Af-Cap’s action on the underlying judgment is no longer a case and controversy between it and Congo. It is axiomatic that if Af-Cap no longer has a claim against the Judgment Debtor, garnishment of Congo’s assets is no longer necessary.


Under the current briefing schedule, Af-Cap’s Reply Brief on the Judgment Motions is due on March 5, 2007. Af-Cap advised garnishee, CMS Nomeco Congo, Inc. (“CMS”), of the settlement with Congo and sought its agreement on dismissing the action under Rule 41 of the Federal Rule of Civil Procedure. Af-Cap also understands that Congo has advised CMS of the settlement. Despite the settlement between the real

parties in interest (Af-Cap and Congo), CMS refuses to consent to dismissal. By this motion, Af-Cap seeks to stay the briefing schedule pending a final dismissal of this matter. Af-Cap respectfully submits the relief requested is appropriate, especially since the Court need not be burdened with additional briefing on a matter that has been settled. Af-Cap anticipates filing a Motion to Dismiss with the Court in the near future.

WHEREFORE, Af-Cap (assignee of Connecticut Bank of Commerce) respectfully requests that the Court enter an order staying the briefing schedule.

Dated: March 2, 2007

GREENBERG TRAURIG, LLP



Donald J. Detweiler (No. 3087)

Dennis A. Meloro (No. 4435)

The Nemours Building

1007 North Orange Street

Suite 1200

Wilmington, DE 19801

(302) 661-7000

and

Kenneth P. Kaplan

Sanford M. Saunders

800 Connecticut Avenue, N.W., Suite 500

Washington, DC 20006

(202) 331-3100

and

James W. Perkins

MetLife Building

200 Park Avenue

New York, NY 10166

(212)801-9200

Attorneys for Plaintiff

CERTIFICATION

Pursuant to Local Rule 7.1.1, counsel for Af-Cap, Inc. certifies that it attempted to contact counsel for CMS Nomeco Congo, Inc., by both telephone and electronic mail, however, it was unable to obtain CMS Nomeco Congo, Inc.'s position on the foregoing motion.

A handwritten signature in black ink, appearing to read 'D. Meloro', is written above a horizontal line.

Dennis A. Meloro (DE No. 4435)

CERTIFICATE OF SERVICE

I, Dennis A. Meloro, hereby certify that I am an attorney at Greenberg Traurig, LLP, counsel for the Plaintiff, and that on March 2, 2007, copies of the MOTION TO STAY BRIEFING SCHEDULE BASED UPON SETTLEMENT WITH JUDGMENT DEBTOR were served upon the following in the manner indicated.

VIA HAND DELIVERY
M. Duncan Grant, Esquire
James C. Carignan, Esquire
Pepper Hamilton LLP
Hercules Plaza, Suite 5100
1313 N. Market Street
Wilmington, DE 19801

VIA FEDERAL EXPRESS
Guy Lipe, Esquire
Jason Powers, Esquire
Vinson & Elkins LLP
First City Tower
1001 Fannin Street, Suite 2300
Houston, TX 77002

Dated: March 2, 2007



Dennis A. Meloro (No. 4435)
Greenberg Traurig, LLP
1007 North Orange Street, Suite 1200
The Nemours Building
Wilmington, DE 19801
(302) 661-7000

Attorneys for the Plaintiff